HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. 1189 of 2003 (SS)

Sri Satendra Singh Rawat vs. Garhwal Mandal Vikash Nigam

Approved for reporting.

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~~Not approved for reporting~~

Date of decision. 19/112003

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1189 of 2003 (SS)

Sri Satendra Singh Rawat & 7 others …… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd; &
Others …….. Respondents

Writ Petition No. 962 of 2003 (SS)

Deepak Singh Panwar ……. Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 285of 2003 (SS)

Km. Rajani Kandari & others …..…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 838 of 2003 (SS)

Radha Ballabh Chamoli ….……. Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 1191 of 2003 (SS)

Budhi Singh & others ….…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 1109of 2003 (SS)

Surat Singh Rawat & others ……..…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 1107 of 2003 (SS)

Harpal Singh & others ….…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 999 of 2003 (SS)

Prem Singh Kandari & others …..…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 907 of 2003 (SS)

Smt. Madhu …..…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 905 of 2003 (SS)

Vinod Pokhariyal …..…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 1009 of 2003 (SS)

Devi Prasad Purohit & others …..…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 831 of 2003 (SS)

Ram Kunwar & others …..…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 335 of 2003 (SS)

Laxman Singh & others ….…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 86 of 2003 (SS)

Hukam Singh Sajwan ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 241 of 2003 (SS)

Shiv Kumar Singh ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 242 of 2003 (SS)

Ajay Kumar Chauhan & others ….…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 294 of 2003 (SS)

Dinesh Malasi ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 295 of 2003 (SS)

Dinesh Juyal ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 333 of 2003 (SS)

Rajendra Prasad ….…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 284 of 2003 (SS)

Nikhil Sharma ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 717 of 2003 (SS)

Umed Singh & others ….…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 4729 of 2001 (SS)

Smt. Bimla Naudiyal ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 4739 of 2001 (SS)

Bhagwati Prasad ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 4750 of 2001 (SS)

Satish Chandra ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 1745 of 2002 (SB)

Ved Prakash Dimari ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 1755 of 2002 (SB)

Smt. Vimla Rawat ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 1504 of 2002 (SB)

Dinesh Kumar Mishra ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 1498 of 2002(SB)

Rajpal Singh ….…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 11 of 2003 (SS)

Ram Chandra ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 04 of 2003 (SS)

Vijay Semwal ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 26 of 2003 (SS)

Sameem Ahmad ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 12 of 2003 (SS)

Anil Nautiyal ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 03 of 2003 (SS)

Natha Singh Rauthan ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 261 of 2003 (SS)

Kaushla Nand Dimari ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 22 of 2003 (SS)

Harendra Kentura & others ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 50 of 2003 (SS)

Trilok Singh & others ….…… Petitioners

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 05 of 2003 (SS)

Prakash Chandra Gairola ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 02 of 2003 (SS)

Ravindra Singh Kandari …… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Writ Petition No. 21 of 2003 (SS)

Hoshiyar Singh ….…… Petitioner

Versus

Garhwal Mandal Vikas Nigam Ltd & others …… Respondents

Sri Paresh Tripathi, B.P.S. Mer, Sri V.K. Bisht, Sri B.S. Negi, Sri Tanuj Semwal
Sri B. P. Nautiyal and Sri R.P. Nautiyal, Advocates, for the petitioners.
Sri U.K. Uniyal, Advocate for the respondents.
Sri M.C. Pant, counsel for the petitioners.

Dated:-19.11.2003

Hon'ble Rajesh Tandon, J.

Heard the learned counsel for the parties.

By the present writ petitions the petitioners have prayed for the issue of a writ, order or directions in the nature of mandamus directing the respondents to pay them regular pay scale and to consider them for regularisation.

Briefly stated the facts giving rise to the present writ petitions are that the petitioners were appointed by the respondents as Class III and Class IV employees in the respondents corporation Garhwal Mandal Vikas Nigam with effect from 1994 to 1997 and still continuing their services with the respondents. According to the petitioners the respondents issued an order dated 6.7.1998 that daily wager employees be given consolidated salary according to the minimum of pay scale of class III and class IV. The order dated 6.7.1998 is quoted below:

निदेशक मण्डल की 72वी बैठक दिनांक 19.5.98 में निर्णय लिया गया कि निगम में दैनिक /समेकित वेतन में कार्यरत कर्मचारियों को उनकी सम्बन्धित श्रेणी के निम्तम वेतनमान के प्रारम्भिक मूल वेतन दिन0 1.6.98 को प्रदान किया जाय।

तृतीय श्रेणी का निम्नतम वेतनमान 950.1500 तथा चतुर्थ श्रेणी का वेतनमान 750. 940 है । इस प्राकर 31.12.90 तक तृतीय एवं चतुर्थ श्रेणी के जो कर्मचारी निरत्तरता के आधार पर दैनिक/समेकित वेतन में कार्यरत रहे हैं और आज की तिथि तक भी कार्यरत है उन्हें निदेषक मण्डल के निर्णय के अनुसार तृतीय श्रेणी का रु0 3200/– रुप्ये तीन हजार दो सौ मात्र प्रतिमाह तथ चतुर्थ श्रेणी का रु0 2600/– ।रु0 दो हजार छः सौ मात्र। प्रतिमाह समेकित वेतन दिनांक 1.6.98 से भुगतान करने के आदेश पारित किये जाते हैं । सम्बन्धित अनुभागाधिकारी उपरोक्त समेकित वेतन संबधित श्रेणी के कर्मचारियों को प्रथम बार भुगतान करने से पूर्व उन कर्मचारियों की सूची अधिष्ठान अनुभाग को अनिवार्यतः उपलब्ध कराना सुनिष्चित करेंगें ।

उपरोक्त आदेष प्रबन्ध निदेशक महोदय की प्रशासनिक स्वीकृति के अधीन जारी किये जा रहे हैं ।

Further order was passed on 26.4.2001 by which the employees working as on 19.5.1998 or before that date was given minimum of pay scale. The order is quoted below:

निदेशक मण्डल की 82वीं बैठक दिनांक 20.2.2001 की मद सं0 27 दैनिक समेकित/न्यून्तम वेतन में सेवायोजित कर्मचारियों के कार्योजन अग्रिम आदेषों तक बढायें जाने सम्बन्धी प्रस्ताव पर किये गये निर्णय के अनुसार दैनिक/समेकित/न्यून्तम वेतन में दिनांक 19.5.98 अथवा उससे पूर्व कार्योजित किये गये कर्मचारियों को कार्योजन अग्रिम आदेशों तक बढाया जाता है ।

सम्बन्धित विभागाध्यक्ष अपने अधीनस्थ कर्मचारियों के आदेष अपने स्तर से निर्गत करेंगे और आदेश निर्गत करने के पूर्व या प्रमाणित करना सुनिश्चित करेंगे कि सम्बन्धित कर्मचारी दिनांक 19.5.98 अथवा उससे पूर्व दैनिक /समेकित/न्यून्तम वेतन में कार्यरत रहे । संबधित विभागाध्यक्ष प्रत्येक निर्गत आदेष की प्रति मुख्यालय अधिष्ठान को भी अभिलेखार्थ भेजेंगे ।

The petitioners have stated that they have made several representations to the respondents for their regularisation in the corporation but the respondents have not taken any decision. It has been stated by the petitioners that 275 posts in Class III and Class IV are lying vacant with the respondents but no steps have been taken to fill up these posts. The petitioners are engaged against these posts and thus they have a legitimate right for regularisation against these posts.

The petitioners have referred that between respondent corporation and office bearers of the Union a minutes of meeting was recorded on 6th February 2003 where it was agreed that grant of equal pay to the daily wage workers shall be paid after the approval of the Board of Directors and the decision on regularisation shall be taken after the meeting of Board of Directors. The Board of Directors has yet not been constituted. The minutes of meeting reads as under:

सं0 1– वर्ष 1983– 84 से कार्यरत दैनिक/न्यूनतम/समेकित वेतन पर कार्यरत कर्मचारियों को नियमित किया जाना	निगम में रिक्त पदों को भरने के संबन्ध में प्रस्ताव निदेशक मण्डल की आगामी बैठक में रखा जाना है निगम का निदेशक मण्डल विधिवत गठित नही है । शासन द्वारा निदेशक मण्डल गठित किये जाने के उपरान्त प्राथमिकता के आधार पर प्रस्ताव बैठक में रखा जायेगा तत्पश्चात निदेशक मण्डल के निर्णय पर हस्ताक्षर होने के एक

माह के अन्दर नियमानुसार उपलब्ध रिक्त पदों के विपरीत दैनिक/समेंकित/न्यूनतम वेतन में कार्यरत कर्मचारियों को उनकी श्रेणी के अनुसार निम्नतम वेतनमान में नियमितिकरण की कार्यवाही की जायेगी ।

The petitioners have further stated that inaction on the part of the Government by not constituting Board of Directors; the petitioners are being deprived from their legal right of regularisation.

It has been submitted by the petitioners that since in the year 2000 there was no Board of Directors, hence the process of regularisation has been interrupted and the benefit of 5th Pay Commission is also being deprived to the petitioners.

The petitioners further submitted that in the year 1992 respondents have decided to grant minimum of pay scale to daily wagers who have entered in service up to 1990. In the year 1995 this process was stopped and thereafter consolidated salary was being paid on the basis of minimum wages.

Respondents have filed counter affidavit and have stated that regularisation of the petitioners will be subject to the availability of the vacant posts as according to the eligibility criteria and of daily wagers and reservation policy. It has also been stated that the persons employed since before 19.5.1998 are being paid minimum of pay scale and similar other daily wagers are getting minimum wages.

The word minimum pay has also been considered for daily rated workmen in the case of State of U.P. vs. Putti Lal 2002 (1) E.L.C. 524 (SC) where it has been observed as under:

"In several cases this Court applying the principle of equal pay for equal work has held that a daily wager, if he is discharging the similar duties as those in the regular employment of the Government, should at least be entitled to receive the minimum of the pay scale though he might not be entitled to any increment of any other allowance that is permissible o his counter part in the Government."

The doctrine of 'equal pay for equal work' has been interpreted in the case of Mewa Ram Kanojia vs. AIIMS (1989)2 SCC 235where the Apex Court after relying upon the judgment in the case of Randhir Singh vs. Union of India and others (1982) 1 SCC 618, held as under:

"The doctrine of "Equal pay for equal work" is not expressly declared a fundamental right under the Constitution. But Article 39 (d) read with Article 14 and 16 of the Constitution declares the Constitutional goal enjoining the State not to deny any peson equality before law in matters relating to employment including the scales of pay. Article 39(d) read with Article 14 and 16 of the Constitution enjoins the State that where all thing are equal, persons holding identical posts, performing identical and similar duties under the

same employer should not be treated differently in the matter of their pay. The doctrine of 'Equal pay for equal work' is applicable when employees holding the same rank perform similar functions and discharge similar duties and responsibilities are treated differently. The application of the doctrine would arise where employees are equal in every respect but they are denie equality in matters relating to the scale of pay. The principle of "Equal pay for equal work" has been enforced by this Court in Randhir Singh v. Union of India, Dhirendra Chamili v. State of U.P. V.J. Thomas vs. Union of India, P. Savita vs. Union of India, Bhagwan Dass vs. State of Hryana and Jaipal vs. State of Haryana. In all these cases this Court granted relief on the application of the doctrine of 'Equal pay for equal work' it has to be borne in mind that it is open to the State to classify employees on the basis of qualifications, duties and responsibilities of the posts concerned. If the classification has reasonable nexus with the objective sought to be achieved, efficiency in the administration, the State would be justified in prescribing different pay scale but if the classification does not stand the test of reasonable nexus and the classification is founded on unreal, and unreasonable basis it would be violative of Article 14 and 16 of the Constitution. Equality must be among the equals. Unequal cannot claim equality."

The grievance of the petitioners is that although they are daily wagers but some of them are getting minimum of pay and some of them are getting only minimum of wages. The concept of fair wages has been interpreted in the case R.B. Employees Association vs. Reserve Bank AIR 1966 SC 305, where the Apex Court has held that the concept of fair wages involves a rate sufficiently high to enable the worker to provide **"a standard family with food, shelter, clothing, medical care and education of children appropriate to his status in life.** In the aforesaid case the Apex Court has relied upon the judgment in the case of AIR 1958 SC 30 and held as under:

"The national Tribunal in adjudicating on this part of the case referred to the Crown Aluminium Works v. Workmen, 1958-1 Lab L.J. 1: (AIR 1958 SC 30), where at page 6 this Court observes:-

"Though social and economic justice is the ultimate ideal of industrial adjudicating, its immediate objective in an industrial dispute as to the wage structure is to settle the dispute by constituting such a wage structure as would do justice to the interest of both labour and capital, would establish genuine and wholehearted co-operation in the task of production……."

In the Apex Court in the case State of Haryana and others vs. Piara Singh and others AIR 1992 SC 2130, it has been held by the Apex Court as under:

"So far as the work charged employees and casual labour are concerned, the effort must be to regularise them as far as possible and as early as possible subject to their fulfilling the qualifications, if any, prescribed for the post and subject also to availability of work. If a casual labourer is continued for a fairly long spell-say two or three years- a presumption may arise that there is regular need for his services. In such situation it becomes obligatory for the concerned authority to examine the feasibility of his regularisation. While doing so, the authorities ought to adopt a positive approach coupled with an empathy for the person. As has been repreatedly stressed y this Court security to tenure is necessary for an employee to give his best to the job"

In the case of Randhir Singh vs. Union of India and others (1982) 1 SCC 618 has held that 'Equal pay for equal work for both men and women' in Article 39(d) means equal pay for every one. The Apex Court has held as under:

"It is true that the principle of 'equal pay for equal work' is not expressly declared by our Constitution to be a fundamental right, But it certainly is a constitutional goal. Article 39(d) of the Constitution proclaims "equal pay for equal work for both men and women" as a directive principle of State Policy. 'Equal pay for equal work for both men and women means equal pay for equal work for everyone and as

between the sexes. Directive Principles, as has been pointed out in some of the judgments of this Court have to be read into the fundamental rights as a matter of interpretation. Article 14 of the Constitution enjoins the State not to deny any person equality before the law or the equal protection of the laws and Article 16 declares that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. These equality clauses of the Constitution must mean something to everyone. To the vast majority of the people the equality clauses of the Constitution would mean nothing if they are unconcerned with the work they do and the pay they get. To them the equality clauses will have some substance if equal work means equal pay. Whether the special procedure prescribed by a statute for trying alleged robber-barons and smuggler kings or for dealing with tax evaders is discriminatory, whether a particular governmental policy in the matter of grant of licences or permits confers unfettered discretion on the Executive, whether the take-over of the empires of industrial tycoons is arbitrary and unconstitutional and other questions of like nature, leave the millions of people of this country untouched. Question concerning wages and the like, mundane they may be, are yet matters of vital concern and it is there, if at all that the quality clauses of the Constitution have any significance to them. The

Preamble to the Constitution declares Socialist Democratic Republic. Against the word 'Socialist' must mean something.

Even if it does not mean 'to each according to his need', it must at least mean 'equal pay for equal work'. "The principle of 'equal pay for equal work' is expressly recognized by all socialist system of law, e.g. Section 59 of the Hungarian Labour Code, para 2 of section 111 of the Czechoslovak Code, Section 67 of the Bulgarian Code, Section 40 of the Code of the German Democratic Republic, para 2 of Section 33 of the Rumanian Code. Indeed this principle has been incorporated in several western Labour Codes too. Under provisions in section 31 (g. No. 2d) of Book I of the French Code du Travail, and according to Argentinian law, this principle must be applied to female workers in all collective bargaining agreements. In accordance with section 3 of the Grundgesetz of the German Federal Republic and Clause 7, Section 123 of the Mexican constitution, the principle is given universal significance" (vide International Labour Law by Istvan Szaszy, p. 265). The Preambel to the Constitution of the International Labour Organisation recognizes the principle of 'equal remuneration for work of equal value, as constituting one of the means of achieving the improvement of conditions "involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled". Construing

Article 14 and 16 in the light of the Preamble and Article 39(d), we are of the view that the principle, 'equal pay for equal work' is deducible form those Article and may be properly applied to cases of unequal scales of pay based on no classification or irrational classification though those drawing the different scales of pay do identical work under the same employer."

…… …… ……

The only answer of the respondents is that the drivers of the Delhi Police Force and the other drivers belong to different departments and that the principle of 'equal pay for equal work' is not a principle which the courts may recognise and act upon. We have shown that the answer is unsound. The clarification is irrational. We, therefore, allow the writ petition and direct the respondents to fix the scale of pay of the petitioner that of the drivers of the Railway Protection Force."

The aforesaid principles of law has been referred in the judgment of State of U.P. vs. J.P. Chaurasia (1989) 1 SCC 121.

The petitioners have relied upon the judgment of Apex Court in the case of Daily Rated Casual Labour vs. Union of India (1998) 1 SCC 122 as under:

"In is a socialist republic. It implies the existence of certain important obligations, which the State has to discharge. The right to

work, the right to free choice of employment the right to just and favourable conditions of work, the right to protection against unemployment, the right of everyone who works to just and favourable remuneration ensuring a decent living for himself and his family, the right of everyone without discrimination of any kind to equal pay for equal work, the right to rest, leisure, reasonable limitation on working hours and periodic holidays with pay, the right to form trade unions and the right to join trade unions of one's choice and the right to security of work are some of the rights which have to be ensured by appropriate legislative and executive measures. It is true that all these rights cannot be extended simultaneously. But they do indicate the socialist goal. The degree of achievement in this direction depends upon the economic resources, willingness of the people to produce and more than all the existence of industrial peace throughout the country. Of those rights the question of security of work is of utmost importance. If a person does not have the feeling that he belongs to an organization engaged in production he will not put forward his best effort to produce more. That sense of belonging arises only when he feels that he will not be turned out of employment the next day at the whim of the management. It is for this reason it is being repeatedly observed by those who are in charge of economic affairs of the countries in different parts of the world that as far as possible security

of work should be assured to the employees so that they may contribute to the maximisation of production. It is again for this reason that managements and governmental agencies in particular should not allow the workers to remain as casual labourers or temporary employees for an unreasonable long period of time."

In the case of State of U.P. & others vs. Putti Lal 2002(1) E.L.C. 524 (SC) the Apex Court has held that the daily wagers would be entitled to draw at the minimum of the pay scale being received by their counter part in the Government and the question of their regular absorption will obviously be dealt with in accordance with the statutory rule. The order is mutatis mutandis apply to the State of Uttaranchal as held by the Apex Court as under:

"So far as the State of Uttaranchal is concerned, a scheme for regularisation of daily workers has been produced before us which prima facie does not appear to be objectionable excepting the provision regarding qualification for regularisation. Be it stated that the qualification essential for being regularised would be the qualification as was relevant on the date a particular employee was taken in as a daily wager and not the qualification which is being fixed under the scheme. The fact that the employees have been allowed to continue for so many years indicates the existence or the necessity for having such posts. But still it would not be open for the

court to indicate as to how many posts would be created for the absorption of these daily wages workers. Needless to mention that the Appropriate Authority will consider the case of these daily wagers sympathetically who have discharged the duties for all these years to the satisfaction of their authority concerned. So far as the salary is concerned as we have stated in the case of State of Uttar Pradesh, a daily wager in the State of Uttaranchal would be also entitled to the minimum of the pay scale as is available to his counter part in the Government until his services are regularised and he is given regular scale of pay."

On the basis of aforesaid judgment the State of Uttaranchal has framed a scheme for the daily wagers of the Forest Department. The scheme know as Regularisation (On Group "D" Posts) of Daily Wages Appointment Rules, 2003. No such scheme has been framed for regularisation of the daily wagers, working in other Departments. The respondents are directed to frame similar scheme for the regularisation of daily wagers engaged in the respondent corporation.

In Kapila Hindograni vs. State of Bihar 2003 (7) AIC 18 (SC) the Apex Court has observed as under:

This Court in Chameli Singh and others vs. State of U.P. and others (1996) 2 SCC 549 referring to Article 11 of the International Covenant on Economic, Social and Cultural Rights, 1966 held that the

State Parties recognize " the right to everyone to an adequate standard of living for himself and for his family including food, clothing, housing and to the continuous improvement of living conditions". Indisputably, the State parties were to take appropriate steps to ensure realization of this thought.

Justice Homles expressed the following view in Missouri v. Holland 252 US 416 (433).

> *"When we are dealing with words that also are a constituent act like the consitituion of the United States, we must realise that they have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters. It was enough for them to realise or to hope that they had created an organism, it has taken a century and has cost their successors must seat and blood to prove that they created a nation. The case before us must be considered in the light of out whole experience and not merely in that of what was said a hundred years ago."*

Justice Frankfurter elucidated the interpretive role in "Some Reflections on the Reading of Statutes."

> *"There are varying shades of compulsions for Judges behind different words, differences that are due to the words themselves, their setting in a text, their setting in history. In*

short, Judges are not unfettered glossators. They are under a special duty not to overemphasize aspects of life and not to undervalue its organic processes-its continuities and relationship."

In Jagdish Saran and others vs. Union of India it is stated:

Law constitutional law is not an omnipotent abstraction or distant idealization but a principled, yet pragmatic value laden and result oriented, set of propositions applicable to and conditioned by a concrete stage of social development of the nation and inspirational imperatives of the people. India- that is the inarticulate major premise of our constitutional law and life."

It is also well settled that statute should be interpreted in the light of the international Treaties and Conventions. In Chairman Railway Board and others vs. Mrs. Chandrima Das and others this Court stated the law thus:

24. The International Covenants and Declarations as adopted by the United Nation have to be respected by all signatory States and meaning given to the above words in those Declarations and Covenants have to be such as would help in effective implementation of those rights. The applicability of the Universal Declaration of Human Rights and the Principles

thereof may have to be read, if need be into the domestic jurisprudence."

In 'Human Rights and Indian Values' Justice M. Rama Jois notices the Ancient Indian Texts in the following words:

SAMANI PRAPA SAHA VINNBHAGA SAMANE YOKTRAN SAHA WO YNISM ARAH NABHIMIVABHITE:

"All have equal rights in articles of food and water. The yoke of the chariot of life is placed equally on the shoulders of all. All should live together with harmony supporting one another like the spokes of a wheel of the chariot connecting its rim and the hub, (Atharvanaveda-Samjanana Sukta)".

Thus, the right to equality of all human beings has been declared in the Vedas, which are regarded as inviolable. In order to emphasize the dignity of the individual, it was said that all are brothers as all are the children of God. No one is inferior or superior. Similarly, the Artharvanaveda stressed that all have equal right over natural resources and all were equally important like spokes in a wheel. Both the Rigveda and Arharvanaveda declared that co-operation between individuals is necessary for happiness and progress. It is also of utmost importance to note that right to equality was made a part of "Dharma" long before the State came to be established.

It is equally interesting to refer to the contents of Articles 1 and 7 of the Universal Declaration of Human Rights (1948), which read:

"All human beings are bore free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

"All are equal before law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement of such discrimination."

This declaration is similar to the declaration of equality made in the Rigveda.

After the establishment of the State, the obligation to protect the right to equality was case on the Rulers. It was made a part of the Rules of Raja Dharma, the Constitutional law.

YATHA SWARIN BHUTANI DHARA DHARYETE SAMAM TATHA SWARIN BHUTANI BIBHARTE PARTHIVM VARTAM

"Just as the mother earth gives equal support to all the living beings, a king should give support to all without any discrimination."

This also meant that the kings were required to afford equal treatment to all the citizens in the same manner in which a mother treats all her children."

In Gujarat Agricultural University vs. Rathod Labhu Bechar and others (2001) 3 SCC 574, the Apex Court has held as under:

"We hope and trust, the Government who is the guardian of the people and is obliged under Article 38 of the Constitution, to secure a social order for the promotion of welfare of the people, to eliminate inequalities in status, will endeavour to give maximum posts even at the first stage of absorption, and do the same in the same spirit for creating additional pots after inquiry as we are indicating hereunder."

Sri U. K. Uniyal, learned counsel for the respondents has stated that all the petitioners are getting minimum of the pay scale or minimum wages in accordance with the directions of the Apex Court from time to time.

He has further stated that so far as the question of regularisation in concerned the Board, shall consider the same. I hope and trust that the State Government will constitute Board of Directors for the respondent Corporation at the earliest opportunity.

In view of the aforesaid facts and circumstances the respondents are directed to consider regularisation of the petitioners after framing a scheme at per with the Regularisation (On Group "D" posts) of Daily Wages Appointment Rules 2003 of the Forest Department as well as in accordance with the observations of the

Apex Court in the case Gujarat Agricultural University vs. Rathod Labhu Bechar and others (Supra).

The petitioners have also pointed out that some of them are getting minimum of pay in accordance with interim order passed from time to time. The respondents will continue to pay the same to the petitioners. The respondents are directed to pay minimum of pay scale to all the petitioners, as admissible to them on the ground of parity.

Subject to the aforesaid observations the writ petitions are disposed of. No order as to costs.

15.11.2003 **(Rajesh Tandon, J.)**
*Dhyani